

CS FOR HOUSE BILL NO. 278(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/27/06

Referred: Rules

Sponsor(s): REPRESENTATIVES HAWKER, Foster

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to accrued actuarial liabilities of government retirement systems;**
2 **relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska**
3 **Municipal Bond Bank Authority or a subsidiary of the authority to assist state and**
4 **municipal governmental employers by issuing bonds and other commercial paper to**
5 **enable the governmental employers to prepay all or a portion of the governmental**
6 **employers' shares of the unfunded accrued actuarial liabilities of retirement systems**
7 **and authorizing governmental employers to contract with and to issue bonds, notes, or**
8 **commercial paper to the authority or its subsidiary corporation for that purpose; and**
9 **providing for an effective date."**

10 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

11 * **Section 1.** AS 14.25.070 is amended by adding a new subsection to read:

12 (d) An employer may prepay all of the employer's share of any accrued

actuarial liability to the plan in a lump sum. The commissioner of administration may, by regulation, permit an employer to prepay a portion of the employer's share of any accrued actuarial liability in a lump sum and establish a minimum amount for the lump sum payment of a portion. The administrator shall charge to the employer appropriate and reasonable administrative costs to the plan attributable to a lump sum payment that are not greater than administrative costs applied to other employer contributions. If an employer is grouped with any other employer in accounting for contributions and the employer makes a lump sum payment, the lump sum payment shall be held separately and accounted for in accordance with regulations adopted by the commissioner. The regulations must provide for crediting to each lump sum payment account all earnings and losses received from investment of that lump sum payment. The lump sum payment shall be used solely to offset contributions under this section required of the employer that made the lump sum payment, taking into account earnings and losses from its investment. A payment made by an employer under this subsection, together with all earnings and losses from investment of that payment, may not be considered in calculating that employer's share of any discretionary payment authorized by the state that benefits multiple employers.

* **Sec. 2.** AS 29.47 is amended by adding a new section to read:

Sec. 29.47.480. Accrued actuarial liabilities of retirement systems. (a) A municipality, or two or more municipalities jointly, may enter into a lease or other contractual agreement with a trustee or the Alaska Municipal Bond Bank Authority or a subsidiary of the authority under which the authority, subsidiary, or trustee will issue certificates of participation or contractual obligations to prepay each participating municipality's share of the accrued actuarial liabilities of retirement systems. Bonds, notes, commercial paper, certificates of participation, or contractual obligations issued by the trustee or the Alaska Municipal Bond Bank Authority or a subsidiary of the authority must be secured and payable as provided in the agreement. The agreement may provide for lease reserves or other reserves and for protective covenants.

(b) Amounts paid by a participating municipality under a lease or other agreement entered into under this section, together with proceeds of the bonds, notes, commercial paper, certificates of participation, or contractual obligations, and interest

1 or earnings, may be pooled into one or more funds or accounts, including one or more
 2 debt service funds. The assets in any of the funds or accounts may be pledged to the
 3 holders of the bonds, notes, commercial paper, certificates of participation, or
 4 contractual obligations.

5 (c) A municipality may enter into a funds diversion agreement with a state
 6 agency regarding payment of money on behalf of the municipality that may be applied
 7 to the payment of a lease or other contractual obligation of the municipality in
 8 connection with bonds, notes, commercial paper, certificates of participation, or
 9 contractual obligations issued under this section. The funds diversion agreement must
 10 provide, subject to any conditions set out in the agreement, that all or a portion of the
 11 funds otherwise payable to the municipality by the state agency shall be paid directly
 12 to the trustee, Alaska Bond Bank Authority, or subsidiary that issued the bonds, notes,
 13 commercial paper, certificates of participation, or contractual obligations to satisfy, in
 14 whole or part, the municipality's obligations to the trustee, authority, or subsidiary. If,
 15 for any reason, a state agency that has entered into a funds diversion agreement is not
 16 able to make a payment to the trustee or the Alaska Municipal Bond Bank Authority
 17 or its subsidiary as provided under the funds diversion agreement, the state agency
 18 shall give notice of that fact to the municipality within 30 days after a determination is
 19 made that the agency will not make the payment. A funds diversion agreement is
 20 irrevocable and must remain in effect until the municipality's obligations in connection
 21 with the bonds, notes, commercial paper, certificates of participation, or contractual
 22 obligations are satisfied. Nothing in this subsection or in a funds diversion agreement
 23 entered into under this subsection obligates the state or a state agency to pay any
 24 amount to or on behalf of a municipality that the municipality is not otherwise entitled
 25 to receive or to make any payments of principal or interest on the bonds, notes,
 26 commercial paper, certificates of participation, or contractual obligations.

27 * **Sec. 3.** AS 39.35.100(b)(3) is amended to read:

28 (3) A separate account for each employer shall be maintained. The
 29 account shall be credited with contributions of the employer. **Except as provided in**
 30 **AS 39.35.270(d), this** [THIS] account shall be charged with the employer's actuarial
 31 charge for pension, death benefits, and other benefits paid under this plan to or on

1 behalf of the employee of the employer. **Except as provided in AS 39.35.270(d),**
 2 **after** [AFTER] an allowance for interest credited to employee contribution accounts
 3 and employee savings accounts, the investment income of the pension fund shall be
 4 allocated to the retirement reserve account and to each employer asset share account
 5 according to the ratio that the average of the assets in the account as of the beginning
 6 and as of the end of the fiscal year bears to the total of the average balance of the
 7 retirement reserve account and all employer accounts.

8 * **Sec. 4.** AS 39.35.100(b)(4) is amended to read:

9 (4) An expense account shall be maintained for the plan. **Except as**
 10 **provided in AS 39.35.270(d), this** [THIS] account shall be charged with all
 11 disbursements representing administrative expenses incurred by the plan. At the end of
 12 the year, the expense account shall be allocated to each employer in accordance with
 13 (3) of this subsection. Expenditures from this account shall be included in the
 14 governor's budget for each fiscal year and are subject to approval by the legislature.

15 * **Sec. 5.** AS 39.35.270 is amended by adding a new subsection to read:

16 (d) An employer may prepay all of the employer's share of any accrued
 17 actuarial liability to the plan in a lump sum. The commissioner may, by regulation,
 18 permit an employer to prepay a portion of the employer's share of any accrued
 19 actuarial liability in a lump sum and establish a minimum amount for the lump sum
 20 payment of a portion. The commissioner shall charge to the employer appropriate and
 21 reasonable costs to the plan attributable to a lump sum payment that are not greater
 22 than administrative costs applied to other employer contributions. If an employer
 23 makes a lump sum payment, the lump sum payment shall be held separately and
 24 accounted for in accordance with regulations adopted by the commissioner. The
 25 regulations must provide for crediting to each lump sum payment account all earnings
 26 and losses received from investment of that lump sum payment. The lump sum
 27 payment shall be used solely to offset contributions under this section required of the
 28 employer that made the lump sum payment, taking into account earnings and losses
 29 from its investment. A payment made by an employer under this subsection, together
 30 with all earnings and losses from investment of that payment, may not be considered
 31 in calculating that employer's share of any discretionary payment authorized by the

1 state that benefits multiple employers.

2 * **Sec. 6.** AS 44.85.010 is amended to read:

3 **Sec. 44.85.010. Legislative policy.** (a) It is the policy of the state **to**

4 (1) [TO] foster and promote by all reasonable means the provision of
5 adequate capital markets and facilities for borrowing money by municipalities in the
6 state to finance capital improvements or for other authorized purposes, to assist these
7 municipalities in fulfilling their capital needs and requirements by use of borrowed
8 money within statutory interest rate or cost of borrowing limitations, to the greatest
9 extent possible to reduce costs of borrowed money to taxpayers and residents of the
10 state, and equally to encourage continued investor interest in the purchase of bonds or
11 notes of municipalities as sound and preferred securities for investment;

12 (2) [TO] encourage municipalities to continue their independent
13 undertakings and financing of capital improvements and other authorized purposes
14 and to assist them by making capital funds available at reduced interest costs for
15 orderly financing of capital improvements and other purposes especially during
16 periods of restricted credit or money supply, particularly for those municipalities not
17 otherwise able to borrow for capital needs;

18 (3) [TO] assist municipalities to provide for adequate insurance
19 coverage by authorizing the Alaska Municipal Bond Bank Authority to issue
20 negotiable or nonnegotiable revenue bonds, notes, or certificates of participation either
21 directly or through an entity it may create for the purpose of providing a self-insurance
22 program for municipalities or municipal joint insurance arrangements organized under
23 AS 21.76;

24 **(4) assist governmental employers to prepay all or a portion of**
25 **their share of unfunded accrued actuarial liabilities of retirement systems in an**
26 **effort to reduce their costs of satisfying their contractual obligations to provide**
27 **retirement and other benefits to public employees through the issuance of bonds,**
28 **notes, or commercial paper by the bond bank authority or by a subsidiary**
29 **corporation created by the bond bank authority under AS 44.85.085.**

30 (b) The legislature further declares that

31 (1) the exercise of the powers of the state in the interest of its

1 municipalities and in the interest of public employees of the state and of its
 2 municipalities is required to further and implement the policies declared in (a) of this
 3 section by authorizing the creation of a state bond bank authority as a body corporate
 4 and politic that will have full powers to borrow money and to issue its bonds and notes
 5 to make capital funds available for borrowing by municipalities and for borrowing
 6 by or on behalf of governmental employers, by authorizing governmental
 7 employers to contract with the bond bank authority or with a subsidiary created
 8 under AS 44.85.085 for the purpose of reducing future costs of providing
 9 retirement and other benefits to employees, and by granting broad powers to the
 10 bond bank authority to carry out the declared policies, which are in the public interest
 11 of the state and its taxpayers and residents;

12 (2) state funds should be applied or authorized to be paid to a state
 13 bond bank authority only to provide adequate assurance and security to the holders of
 14 the bonds or notes of the bond bank authority;

15 (3) the bond bank authority should conduct its operations to provide
 16 the lowest rates in terms of borrowing to municipalities as is consistent with a self-
 17 supporting operation with no expectation of subsidization with state funds; the
 18 legislature does not intend that the bond bank authority be utilized as a means to
 19 finance municipalities beyond their capability to meet repayment schedules and debt
 20 service requirements of bonds or notes;

21 (4) the bond bank authority or its subsidiary should conduct its
 22 operations to provide the lowest rates in terms of borrowing to governmental
 23 employers under AS 44.85.085 and 44.85.086 as is consistent with a self-
 24 supporting operation with no expectation of subsidization with state funds; the
 25 legislature does not intend that the bond bank authority or its subsidiary be
 26 utilized as a means to finance governmental employers under AS 44.85.085 and
 27 44.85.086 beyond their capability to meet repayment schedules and debt service
 28 requirements of bonds, notes, commercial paper, or contractual obligations to the
 29 bond bank authority or its subsidiary.

30 * Sec. 7. AS 44.85.080 is amended to read:

31 Sec. 44.85.080. Powers of bond bank authority. The bond bank authority

1 may

2 (1) sue and be sued;

3 (2) adopt and alter an official seal;

4 (3) make and enforce bylaws and regulations for the conduct of its
5 business and for the use of its services and facilities;

6 (4) maintain an office at any place in the state;

7 (5) acquire, hold, use, and dispose of its income, revenues, funds, and
8 money;

9 (6) acquire, rent, lease, hold, use, and dispose of other personal
10 property for its purposes;

11 (7) subject to AS 44.85.100(b), borrow money and issue its negotiable
12 bonds or notes and provide for and secure their payment, provide for the rights of their
13 holders and purchase, hold and dispose of any of its bonds or notes;

14 (8) fix and revise from time to time and charge and collect fees and
15 charges for the use of its services or facilities;

16 (9) accept gifts or grants from the United States, or from any
17 governmental unit or person, firm, or corporation, carry out the terms or provisions or
18 make agreements with respect to the gifts or grants, and do all things necessary,
19 useful, desirable, or convenient in connection with procuring, accepting, or disposing
20 of the gifts or grants;

21 (10) do anything authorized by this chapter, through its officers,
22 agents, or employees or by contracts with a person;

23 (11) make, enter into, and enforce all contracts necessary, convenient,
24 or desirable for the purposes of the bond bank authority or pertaining to a loan to a
25 political subdivision, a purchase or sale of municipal bonds or other investments, or
26 the performance of its duties and execution of any of its powers under this chapter;

27 (12) purchase or hold municipal bonds at prices and in a manner the
28 bond bank authority considers advisable, and sell municipal bonds acquired or held by
29 it at prices without relation to cost and in a manner the bond bank authority considers
30 advisable;

31 (13) invest funds or money of the bond bank authority not required at

1 the time of investment for loan to political subdivisions for the purchase of municipal
 2 bonds, in the same manner as permitted for investment of funds belonging to the state,
 3 except as otherwise provided in this chapter;

4 (14) prescribe the form of application or procedure required of a
 5 political subdivision for a loan or purchase of its municipal bonds, fix the terms and
 6 conditions of the loan or purchase, and enter into agreements with political
 7 subdivisions with respect to loans or purchases;

8 (15) render services to a political subdivision in connection with a
 9 public or private sale of its municipal bonds, including advisory and other services,
 10 and charge for services rendered;

11 (16) charge for its costs and services in review or consideration of a
 12 proposed loan to a political subdivision or purchase by the bond bank authority of
 13 municipal bonds of the political subdivision, whether or not the loan is made or the
 14 municipal bonds purchased;

15 (17) fix and establish terms and provisions with respect to a purchase
 16 of municipal bonds by the bond bank authority, including date and maturities of the
 17 bonds, provisions as to redemption or payment before maturity, and any other matters
 18 which in connection with the purchase are necessary, desirable, or advisable in the
 19 judgment of the bond bank authority;

20 (18) procure insurance against any losses in connection with its
 21 property, operations, or assets in amounts and from insurers as it considers desirable;

22 (19) to the extent permitted under its contracts with the holders of
 23 bonds or notes of the bond bank authority, consent to modification of the rate of
 24 interest, time and payment of installment of principal or interest, security or any other
 25 term of a bond or note, contract or agreement of any kind to which the bond bank
 26 authority is a party;

27 (20) by regulation, create a new entity or new entities for the purpose
 28 of issuing negotiable or nonnegotiable revenue bonds, notes, or certificates of
 29 participation to finance a self-insurance program for municipalities or municipal joint
 30 insurance arrangements organized under AS 21.76 or to provide assistance to
 31 governmental employers under AS 44.85.085(a); the powers, duties, and

1 membership of the new entity or entities shall be limited to the powers, duties, and
 2 membership of the authority and stated in the regulation; the new entity or entities
 3 shall each be a public corporation and an instrumentality of the state with the same
 4 legal existence and continuing succession as the bond bank authority; and

5 (21) do all acts and things necessary, convenient, or desirable to carry
 6 out the powers expressly granted or necessarily implied in this chapter.

7 * **Sec. 8.** AS 44.85 is amended by adding new sections to read:

8 **Sec. 44.85.085. Creation of subsidiary corporation.** (a) The bond bank
 9 authority may create one or more subsidiary corporations for the following purposes:

10 (1) providing financial and other assistance to governmental employers
 11 to enable the governmental employers to reduce their costs of providing retirement
 12 and other benefits to their employees by prepaying all or a portion of their shares of
 13 the unfunded accrued actuarial liabilities of retirement systems;

14 (2) receiving payments and providing servicing for payments to or
 15 from participating governmental employers; and

16 (3) performing other duties and providing other services as the
 17 subsidiary corporation considers necessary or desirable to further the purposes set out
 18 in (1) and (2) of this subsection.

19 (b) The bond bank authority may incorporate under AS 10.20.146 - 10.20.166
 20 a subsidiary corporation created under (a) of this section. The bond bank authority
 21 may transfer assets of the bond bank authority to the subsidiary corporation and may
 22 agree to secure bonds, notes, commercial paper, or other obligations of the subsidiary
 23 corporation with a reserve fund established under AS 44.85.270.

24 (c) A subsidiary corporation created under (a) of this section may borrow
 25 money and issue bonds, notes, commercial paper, or other obligations as evidence of
 26 that borrowing and may have all the powers of the bond bank authority that the bond
 27 bank authority grants to it. The provisions of AS 44.85.130 - 44.85.170 and 44.85.270
 28 - 44.85.390 apply to the subsidiary corporation and to bonds, notes, commercial paper,
 29 or other obligations issued by the subsidiary corporation. Unless otherwise provided
 30 by the bond bank authority, the debts, liabilities, and obligations of the subsidiary
 31 corporation are not the debts, liabilities, or obligations of the bond bank authority.

(d) The staff of the bond bank authority serves as staff of a subsidiary corporation created under (a) of this section. The bond bank authority shall determine the membership or the process for selecting the membership of the board of directors of the subsidiary corporation. The bond bank authority may permit some or all of its directors to serve on the board of directors of the subsidiary corporation.

Sec. 44.85.086. Powers of subsidiary corporation. A subsidiary corporation created under AS 44.85.085 has the following powers in addition those granted to it under AS 44.85.085(c):

(1) to make loans to and enter into contracts with governmental employers;

(2) to incur debt in furtherance of its purposes in the form of bonds, notes, commercial paper, or other forms as the subsidiary corporation considers appropriate;

(3) to secure its debt with a pledge of any assets that are available to the subsidiary corporation for the purpose, including identified revenue and contractual payments from participating governmental employers, and the general assets and revenue of the subsidiary corporation; and

(4) to enter into contracts with underwriters, bond counsel, financial advisors, accountants, actuaries, and other contractors to provide assistance as the subsidiary corporation considers desirable to accomplish its purposes.

* **Sec. 9.** AS 44.85.100(b) is amended to read:

(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the fiscal year following the fiscal year in which the report is submitted. **Other than refunding bonds and other than bonds, notes, commercial paper, or other obligations issued under AS 44.85.086 and 44.85.180(a)(5), the** [THE] bond bank authority may not issue revenue bonds [, OTHER THAN REFUNDING BONDS,] in excess of \$75,000,000 during any fiscal year beginning after June 30, 1981, unless the legislature, by law, approves the estimate required by this subsection for that fiscal year.

* **Sec. 10.** AS 44.85.180(a) is amended to read:

(a) Subject to AS 44.85.100(b), the bond bank authority may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this chapter, including

(1) the purchase of municipal bonds;

(2) the making of loans through the purchase of municipal bonds, notes, or certificates of participation secured by an agreement between the bond bank authority and a municipality or a municipal joint insurance arrangement organized under AS 21.76;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be funded or refunded have or have not become due;

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bond bank authority incident to and necessary or convenient to carry out its corporate purposes and powers;

(5) assisting governmental employers to prepay all or a portion of their share of the unfunded accrued actuarial liabilities of retirement systems, with security as the bond bank authority considers reasonable.

* **Sec. 11.** AS 44.85.180(c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time [, EXCEPT BONDS OR NOTES ISSUED TO FUND OR REFUND BONDS OR NOTES,] may not exceed \$500,000,000. **This subsection does not apply to (1) bonds or notes issued to fund or refund bonds or notes; (2) bonds, notes, commercial paper, and other obligations issued under AS 44.85.086 or 44.85.180(a)(5).**

* **Sec. 12.** AS 44.85.410(a)(5) is amended by adding a new paragraph to read:

(8) "governmental employer" means the State of Alaska or a municipality or other state or municipal governmental entity within the state, including an agency, instrumentality, district, school district, public corporation, department, division, or other subdivision of the state or of a municipality, in its capacity as an

1 employer.

2 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).